

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TYREK DUBOSE

Plaintiff,

v.

C.O. HARKINS, et al.,

Defendants.
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ORDER

22 CV 2124 (VB)

4/2/24
Copies Mailed/Faxed
Chambers of Vincent L. Briccetti
4/2/24 *VB*

On September 28, 2023, the Court held an initial conference in this matter. Defense counsel and plaintiff, who is proceeding pro se and in forma pauperis, both appeared. After confirming their availability on the record, the Court ordered the parties to appear for a further case management conference today, April 2, 2024, at 9:30 a.m. This date was memorialized in the Civil Case Discovery Plan and Scheduling Order, a copy of which was given to plaintiff at the September 28 conference, and was also posted on ECF. (Doc. #88).

Today, the Court, a court reporter, and the Court's staff were all present at the appointed time, but plaintiff and defense counsel both failed to appear, without excuse or explanation. The Court's staff contacted both parties by phone and received no response. At approximately 10:05 a.m., Judge Briccetti's courtroom deputy was informed that defense counsel, Mr. Feliu, is currently out of the country. The Court does not appreciate having its time wasted and is particularly disappointed by defense counsel's failure to meet his basic professional obligations. Of course, that failure did not prejudice plaintiff, because plaintiff also failed to appear.

The Court having been forced to reschedule today's conference, it is **HEREBY ORDERED:**

1. A case management conference is scheduled for **April 23, 2024, at 9:30 a.m.**

The conference shall proceed in person, in Courtroom 620 at the White Plains courthouse.

2. If either plaintiff or defense counsel is unable to appear at the conference on April 23, 2024, they must submit a request in writing to the Court by no later than **April 16, 2024**, for an adjournment of the date and/or time.

3. **Plaintiff is advised that if he fails to comply with this Order and fails to appear at the conference scheduled for April 23, 2024, the Court may deem his failure to be an abandonment of this case and may dismiss this action for failure to prosecute and comply with Court Orders. See Fed. R. Civ. P. 41(b). Plaintiff is further reminded he must advise the Court in writing of any change of address.**

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal taken from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: April 2, 2024
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge